

Exhibit 4

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF TEXAS
4 SHERMAN DIVISION

5 - - -
6 THE STATE OF TEXAS, et al.,
7 Plaintiffs,

8 v. Civil Action No.
9 GOOGLE LLC, 4:20-cv-00957-SDJ
10 Defendant.

11 - - -
12 April 5, 2024

13 - HIGHLY CONFIDENTIAL -

14 Videotaped deposition of
15 [REDACTED], held at Freshfields,
16 Bruckhaus, Deringer, 170 Greenwich Street,
17 New York, New York, commencing at 8:00
18 a.m. EDT, on the above date, before Marie
19 Foley, a Registered Merit Reporter,
20 Certified Realtime Reporter and Notary
21 Public.

22 - - -
23
24
25 Job No. MDLG6626470

| Page 2 | Page 4 |
|---|---|
| <p>1 2 A P P E A R A N C E S: 3 4 NORTON ROSE FULBRIGHT US LLP 5 BY: M. MILES ROBINSON, ESQUIRE 6 GERALDINE YOUNG, ESQUIRE 7 DANIELLA TORREALBA, ESQUIRE 8 Fulbright Tower 9 1301 McKinney, Suite 5100 10 Houston, Texas 77010-3095 11 713.651.5151 12 m.miles.robinson@nortonrosefulbright.com 13 14 15 THE LANIER LAW FIRM 16 BY: ZEKE DeROSE, III, ESQUIRE (via Zoom) 17 10940 W. Sam Houston Parkway N 18 Suite 100 19 Houston, Texas 77064 20 713.659.5200 21 zeke.derose@lanierlawfirm.com 22 Representing the Plaintiff States of 23 Texas, Idaho, South Dakota and 24 North Dakota 25</p> | <p>1 2 3 EXHIBIT TECHNICIAN: 4 Ray Moore (via Zoom) 5 6 7 VIDEOGRAPHER: 8 Danny Ortega 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |
| Page 3 | Page 5 |
| <p>1 2 A P P E A R A N C E S: (Cont.) 3 4 FRESHFIELDS BRUCKHAUS DERINGER LLP 5 BY: SARA SALEM, ESQUIRE 6 TINA LaRITZ, ESQUIRE 7 JUSTINA SESSIONS, ESQUIRE 8 LAUREN VACA, ESQUIRE (via Zoom) 9 700 13th Street, NW 10 10th Floor 11 Washington, DC 20005-3960 12 202.777.4400 13 sara.salem@freshfields.com 14 Representing the Defendant 15 16 17 ALSO PRESENT: 18 Steve Sparling, Google in-house counsel 19 20 ALSO PRESENT VIA ZOOM: 21 Trevor Young, Texas Attorney 22 General's Office 23 Melonie DeRose, Lanier Law Firm 24 Jonathan D. Jaffe, Mayer Brown 25 Cuong Pham</p> | <p>1 2 - - - 3 TRANSCRIPT INDEX 4 PAGE 5 APPEARANCES..... 2 - 4 6 INDEX OF EXHIBITS..... 6 - 9 7 EXAMINATION OF [REDACTED]: 8 BY: MR. ROBINSON..... 13 9 AFTERNOON SESSION..... 216 10 SIGNATURE PAGE..... 376 11 ERRATA..... 377 12 REPORTER'S CERTIFICATE..... 378 13 14 EXHIBITS WITH ORIGINAL TRANSCRIPT 15 16 - - - 17 18 19 20 21 22 23 24 25</p> |

2 (Pages 2 - 5)

| Page 242 | Page 244 |
|--|---|
| <p>1</p> <p>2 the following question: What has been the</p> <p>3 impact of the Invite Media acquisition by</p> <p>4 Google a year ago? Any surprises?</p> <p>5 A selection of responses from</p> <p>6 industry execs is below.</p> <p>7 Did I read that right?</p> <p>8 A. Yes, I believe you read that as</p> <p>9 it's written.</p> <p>10 Q. So, going to the third page,</p> <p>11 it's marked at the bottom right-hand</p> <p>12 corner 3 out of 10, do you see the name</p> <p>13 Bill Wise in bold?</p> <p>14 A. Yes.</p> <p>15 Q. Where it says Bill Wise, CEO,</p> <p>16 MediaBank, his quote: They've become more</p> <p>17 evil. End quote.</p> <p>18 Did I read that right?</p> <p>19 A. That appears to be the quote</p> <p>20 that's written.</p> <p>21 Q. And that appears to be his</p> <p>22 answer to AdExchanger's question of: What</p> <p>23 has been the impact of invite -- of the</p> <p>24 Invite Media acquisition by Google a year</p> <p>25 ago? Any surprises?</p> | <p>1</p> <p>2 A. Hangout is the previous name of</p> <p>3 Google's internal chat platform, I</p> <p>4 believe.</p> <p>5 Q. So before it was Google Chats,</p> <p>6 it was Hangout?</p> <p>7 A. That's my understanding, yes.</p> <p>8 Q. Do you generally recall when</p> <p>9 Hangout turned into Google Chats?</p> <p>10 A. I don't know the timeline of</p> <p>11 when that transition happened.</p> <p>12 Q. When you first started at</p> <p>13 Google, were you using Hangout or Google</p> <p>14 Chats?</p> <p>15 A. I used the messaging service</p> <p>16 that's embedded inside of a corporate</p> <p>17 email. I believe it was possibly called</p> <p>18 G-chat and then subsequently called</p> <p>19 Hangouts and is currently called Chat. I</p> <p>20 don't know the details of the product</p> <p>21 taxonomy and migrations of the product,</p> <p>22 but I access is generally through my</p> <p>23 corporate email as an adjacent product.</p> <p>24 Q. So do you generally communicate,</p> <p>25 one mode of communication with your team</p> |
| Page 243 | Page 245 |
| <p>1</p> <p>2 Right, that's the -- that's the</p> <p>3 question?</p> <p>4 A. Yes, the question asked was:</p> <p>5 What has been the impact of the Invite</p> <p>6 Media acquisition by Google a year ago?</p> <p>7 Quote.</p> <p>8 Q. And Mr. Wise's answer to that</p> <p>9 question was, quote, They've become more</p> <p>10 evil.</p> <p>11 Right?</p> <p>12 A. That's what's written on the</p> <p>13 page, yes.</p> <p>14 Q. So we've taken a look at, I</p> <p>15 believe, one previous instance of you</p> <p>16 using the internal Google Chats, right?</p> <p>17 A. I believe that we had one</p> <p>18 document that was internal chats, yes.</p> <p>19 Q. So I take it from that that you</p> <p>20 generally use chats?</p> <p>21 MS. SALEM: Object to the form.</p> <p>22 A. I use Chat to communicate with</p> <p>23 colleagues.</p> <p>24 Q. And have you ever used a chat</p> <p>25 platform called Hangout?</p> | <p>1</p> <p>2 that you supervise, do you use Chats?</p> <p>3 A. I communicate with my team</p> <p>4 through Chats, yes.</p> <p>5 Q. What about -- what about other</p> <p>6 teams at Google, do you communicate with</p> <p>7 them through Chats as well?</p> <p>8 A. Yes, I communicate with</p> <p>9 colleagues through Chat.</p> <p>10 Q. And what about your supervisors</p> <p>11 or people above you, do you communicate</p> <p>12 with -- using Chats with them?</p> <p>13 A. I do. I communicate with Chat</p> <p>14 with my colleagues.</p> <p>15 Q. And do you ever use Chats to</p> <p>16 communicate with customers or clients?</p> <p>17 A. I don't use Chat to communicate</p> <p>18 externally, to my knowledge, no. No</p> <p>19 recollection of ever doing so.</p> <p>20 Q. Have you ever heard anyone at</p> <p>21 Google use the term, a non-attorney, ever</p> <p>22 heard someone at Google using the term</p> <p>23 "communicate with care"?</p> <p>24 A. Not expressly in a standalone</p> <p>25 type format.</p> |

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|--|--|
| <p style="text-align: right;">Page 246</p> <p>1</p> <p>2 Q. So you never expressly heard</p> <p>3 someone say "communicate with care" to</p> <p>4 you?</p> <p>5 A. Not those words in quotation</p> <p>6 marks.</p> <p>7 Q. So would you be surprised if --</p> <p>8 if you had heard those words then?</p> <p>9 A. I would not be surprised if I've</p> <p>10 had a part of trainings or onboardings</p> <p>11 where people used the phrase "communicate</p> <p>12 with care" to remind people to be</p> <p>13 thoughtful about how they approach</p> <p>14 conversations in any number of settings.</p> <p>15 Q. So, can you expand on -- on</p> <p>16 that? You said thoughtful about --</p> <p>17 thoughtful about how they approach</p> <p>18 conversations.</p> <p>19 Any more detail you can provide</p> <p>20 about what "communicate with care" means?</p> <p>21 MS. SALEM: Object to the form.</p> <p>22 A. Again, I'm not referring to, I</p> <p>23 would say, a trademark claim of the phrase</p> <p>24 "communicate with care" to be specific.</p> <p>25 You know, I think we generally</p> | <p style="text-align: right;">Page 248</p> <p>1</p> <p>2 MS. SALEM: Object to the form.</p> <p>3 A. I don't know. It would be</p> <p>4 highly variable. It's based on my</p> <p>5 calendar for the day.</p> <p>6 Q. So if it's a -- a busy -- a busy</p> <p>7 chat day, what's a ballpark estimate on</p> <p>8 how many chats you would send?</p> <p>9 A. Can you give a more specific</p> <p>10 definition of how you consider a chat?</p> <p>11 Q. Yeah, the communications going</p> <p>12 through that Google Chat platform.</p> <p>13 A. I understand it's a</p> <p>14 conversational platform which means that</p> <p>15 chats could be each individual message or</p> <p>16 it could be individual conversations.</p> <p>17 So if you could help me clarify,</p> <p>18 sort of, what estimate you're looking for,</p> <p>19 that would be helpful.</p> <p>20 Q. I mean, it seems like from what</p> <p>21 you're saying that whether it's a slow day</p> <p>22 or busy day, that you're regularly using</p> <p>23 Chats in the course of your normal</p> <p>24 business, right?</p> <p>25 MS. SALEM: Object to the form.</p> |
| <p style="text-align: right;">Page 247</p> <p>1</p> <p>2 have concepts of being Googlelely, which</p> <p>3 means communicating thoughtfully and</p> <p>4 politely with individuals.</p> <p>5 We also have confidential</p> <p>6 information. Obviously that is</p> <p>7 need-to-know on certain basis for</p> <p>8 different teams, and so we would be</p> <p>9 thoughtful about how we communicate and</p> <p>10 careful about how we communicate certain</p> <p>11 pieces of information to certain</p> <p>12 individuals.</p> <p>13 Q. Thoughtful about how you</p> <p>14 communicate meaning make sure you don't</p> <p>15 put it in -- in a written record, right?</p> <p>16 MS. SALEM: Object to the form.</p> <p>17 A. In the case of need-to-know</p> <p>18 information, it would be thoughtful about</p> <p>19 not communicating it to people who don't</p> <p>20 need to know.</p> <p>21 Q. How often do you use Chat?</p> <p>22 A. I use Chat on a daily basis.</p> <p>23 Q. On a given day, what's an</p> <p>24 average number of chats you think you</p> <p>25 send?</p> | <p style="text-align: right;">Page 249</p> <p>1</p> <p>2 A. My use of Chat is commiserate</p> <p>3 with my calendar and certain topics that</p> <p>4 I'm working on. There are some days that</p> <p>5 I would use Chat more than other days.</p> <p>6 Q. But it's -- it's pretty typical</p> <p>7 for you to be conduct your business in</p> <p>8 your roles and responsibilities partly</p> <p>9 through chat though, right?</p> <p>10 MS. SALEM: Object to the form.</p> <p>11 A. I use Chat as part of my role.</p> <p>12 I don't consider Chat to be the way in</p> <p>13 which I conduct business.</p> <p>14 Q. But it's -- it's one of the ways</p> <p>15 you -- in which you communicate your</p> <p>16 business, right?</p> <p>17 A. I communicate with colleagues</p> <p>18 through Chat. It's not a way in which I</p> <p>19 operate the business as a standalone</p> <p>20 communication general platform.</p> <p>21 Q. But you did tell me that you</p> <p>22 think you use Chat daily, right?</p> <p>23 A. I communicate with colleagues</p> <p>24 through Chat on a daily basis.</p> <p>25 Q. Does your chat platform, so</p> |

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| <p style="text-align: right;">Page 250</p> <p>1</p> <p>2 Google Chats, does it have -- does it have</p> <p>3 an option where you can turn the chat</p> <p>4 history off?</p> <p>5 A. My chat does not have the option</p> <p>6 to turn off a chat history.</p> <p>7 Q. Is that because you're on a</p> <p>8 litigation hold?</p> <p>9 A. I believe so.</p> <p>10 Q. Before the -- when did Google</p> <p>11 first tell you that you -- your chats were</p> <p>12 being put on a litigation hold?</p> <p>13 A. I don't recall the first time.</p> <p>14 Q. Years -- years ago? Months ago?</p> <p>15 A. I think years ago, yes.</p> <p>16 Q. Before that litigation hold, do</p> <p>17 you know if your chat history was turned</p> <p>18 off?</p> <p>19 A. I don't recall.</p> <p>20 Q. You said that you used Chats to</p> <p>21 communicate with -- with your team, your</p> <p>22 supervisors, and other teams at Google,</p> <p>23 right?</p> <p>24 A. Can you read back the specific</p> <p>25 testimony?</p> | <p style="text-align: right;">Page 252</p> <p>1</p> <p>2 the ordinary course of my business, but I</p> <p>3 don't use Chat as an exclusive</p> <p>4 conversation -- or as exclusive</p> <p>5 communication form for the business.</p> <p>6 Q. Before you got told to</p> <p>7 litigation hold, do you recall if your</p> <p>8 chat's history was turned off?</p> <p>9 A. I do not recall.</p> <p>10 Q. If you send -- and -- and you'll</p> <p>11 be more familiar with this than I am.</p> <p>12 So, chat history, I understand</p> <p>13 that -- that chats can be retained or kept</p> <p>14 by Google or not kept by Google, storage</p> <p>15 so to speak, and that chat history has to</p> <p>16 do about that retention of chats, right?</p> <p>17 MS. SALEM: Object to the form.</p> <p>18 A. I'm sorry, I don't quite</p> <p>19 understand the question.</p> <p>20 Q. Yeah.</p> <p>21 So, what is -- what is -- what</p> <p>22 does a chat history mean, if that's turned</p> <p>23 on or off?</p> <p>24 A. I'm not familiar with the</p> <p>25 intricacies of the product and how it</p> |
| <p style="text-align: right;">Page 251</p> <p>1</p> <p>2 Q. I'll just re-ask, allow you</p> <p>3 to -- I'll just re-ask the question, and</p> <p>4 just to the best of your ability answer my</p> <p>5 question.</p> <p>6 Do -- do you use Google Chat to</p> <p>7 communicate within your team?</p> <p>8 A. I use Google Chat to communicate</p> <p>9 within my team.</p> <p>10 Q. And what about with other teams</p> <p>11 at Google, do you use Google Chat?</p> <p>12 A. I use Google Chat to communicate</p> <p>13 with colleagues at Google.</p> <p>14 Q. And do you use Google Chat to</p> <p>15 communicate with your supervisors and more</p> <p>16 senior Google employees, right?</p> <p>17 A. I use Google Chat to communicate</p> <p>18 with my supervisors and some more senior</p> <p>19 employees at Google.</p> <p>20 Q. So in the ordinary course of</p> <p>21 your business of directing product --</p> <p>22 global product sales and strategy, you</p> <p>23 send chats, right?</p> <p>24 MS. SALEM: Object to the form.</p> <p>25 A. I use Chats to communicate about</p> | <p style="text-align: right;">Page 253</p> <p>1</p> <p>2 works.</p> <p>3 As a user, my understanding is</p> <p>4 that the -- the chat history has a record</p> <p>5 of the conversation.</p> <p>6 Q. And so if the chat history is</p> <p>7 on, there's a record of the conversation,</p> <p>8 right?</p> <p>9 A. Again I'm not a product expert</p> <p>10 on Chat. So I don't know the intricacies</p> <p>11 what happens with regard to the toggle of</p> <p>12 that specific setting.</p> <p>13 Q. And -- and I -- I don't need to</p> <p>14 know about the intricacies of it, more</p> <p>15 just your experience as a user, user of</p> <p>16 it.</p> <p>17 Is that fair?</p> <p>18 A. So, my experience of the chat</p> <p>19 history is that if there isn't a chat</p> <p>20 history, the chat isn't there to scroll</p> <p>21 back up through. I don't recall how that</p> <p>22 actually manifests. It's not something --</p> <p>23 a setting that I pay particular attention</p> <p>24 to or have specific memories around.</p> <p>25 Q. So I want to make sure we're on</p> |

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1
2 the same page about this.
3 So, if the chat history is off,
4 there won't be any permanent storage of
5 that chat, right?
6 A. I'm not a --
7 MS. SALEM: Object to the form.
8 A. I'm not a product manager. I
9 don't know how the settings of that
10 setting manifest itself from a product and
11 engineering perspective.
12 Q. But just as a user, a user of.
13 You said you use it daily.
14 So in the course of daily using
15 it, do you have any -- any idea about --
16 about what happens to chat -- chat
17 histories -- chats where the history is
18 turned off?
19 A. My understanding is that if a
20 history for a chat is turned off, for
21 example I would not be able to access it
22 again. I don't have recollection of
23 trying to access a chat history, so I
24 don't know the details exactly of how that
25 operates.

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1
2 Q. Before the litigation hold, do
3 you recall purposely turning the history,
4 the chat history option on or off?
5 A. I don't have recollection of
6 specific settings of the chat history.
7 Q. Did anyone at Google ever
8 instruct you to turn a chat history off?
9 A. Not to my recollection.
10 Q. But you wouldn't be surprised if
11 it had happened?
12 MS. SALEM: Object to the form.
13 A. I don't have recollection of
14 anybody ever asking me to turn off my chat
15 history.
16 Q. Did anyone at Google ever
17 instruct you as a policy not to record a
18 chat discussing sensitive information?
19 A. No.
20 Q. Did you ever instruct anyone at
21 Google to not record a chat discussing
22 sensitive information?
23 A. No.
24 Q. For other Google employees
25 that -- that aren't on a litigation hold

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1
2 requiring the chat history to be on, do
3 you know if the default is to have the
4 chat history off?
5 A. I do not know.
6 Q. Whenever you first start -- when
7 you first started at Google, Google had
8 some sort of internal chat system, right?
9 A. I don't remember what the chat
10 system was, but I believe that there was
11 chat as part of Gmail, and Gmail was the
12 internal corporate system that we used.
13 We had the internal version of Gmail.
14 Q. So from your -- from your entire
15 history at Google, there's been some form
16 of -- of chat that you've used, right?
17 MS. SALEM: Object to the form.
18 A. I have conversed with colleagues
19 at Google through chats for as long as
20 I've been at Google.
21 Q. So since 2010?
22 A. I joined Google in June of 2010,
23 yes.
24 Q. So, I recall that you said that
25 you weren't able to give a -- an

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1
2 approximation of how many chats in a given
3 day you use.
4 Is that still your testimony?
5 A. I believe my testimony was that
6 I used Chat on a regular basis with
7 colleagues and if we had a more finite
8 definition of what we would want to give I
9 might be able to give one, but it's a
10 broad concept 'cause it's a conversation
11 and there's different ways to define a
12 chat.
13 Q. So if we just take this week,
14 yesterday, about how many chats do you
15 approximately think you sent yesterday?
16 A. Again, could you give me a
17 tighter definition of what you would
18 consider a chat?
19 Q. So, I -- I thought we
20 established -- are there multiple chat
21 platforms that you can use at Google
22 internally?
23 A. Sorry, I guess we could be
24 considered to be having a chat right now,
25 and every message is an individual

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1
2 message. We could have had four or five
3 chats if we break each of our breaks into
4 different chats.
5 So it's hard for me to estimate
6 how many chats I have without having a
7 better understanding of what we consider
8 an entity that we would quantify as a
9 chat.
10 Q. So I would say, and I appreciate
11 the clarification, each -- each one of
12 your entries in a conversation where we're
13 having a back and forth, each time you --
14 you see something from a colleague and you
15 type at the computer and hit -- hit
16 "Enter" and that goes out, I would
17 consider that what I'm saying as one chat.
18 A. Okay.
19 So each individual message sent
20 in a conversation with the various
21 entities that I am conversing with.
22 Q. Yes, sir.
23 A. I think it's reasonable to think
24 that on some days I have hundreds of
25 chats, by that definition.

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1
2 Q. On a given day, how many -- how
3 many different people do you think you are
4 generally having Chat conversations with?
5 A. Vary greatly on the day. Most
6 days probably less than a handful.
7 Q. Handful being five?
8 A. Sure, less than five on a given
9 day.
10 Some days I might have chats
11 with more people.
12 Q. Are you generally aware of how
13 many documents Google has produced in this
14 case?
15 A. No, I'm not.
16 Q. If I represented to you that the
17 number is hovering right around six
18 million documents, do you have any reason
19 to not believe me?
20 A. I don't have a definition of
21 what would be considered a document, and
22 it could be as nuanced as what would be
23 considered a chat, and so I wouldn't have
24 any grounds to have an opinion on any
25 number.

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1
2 Q. Whether it's a single chat or
3 one conversation being a document, six
4 million documents quite a bit of paper,
5 isn't it?
6 A. Quite a bit's a relative term.
7 I'm not a lawyer familiar with
8 complex litigation, so I don't know if six
9 million is a lot or not in the relative
10 nature of the case.
11 Q. I'll tell you as a lawyer that
12 six million is still a lot.
13 Did you know that of that six
14 million, only about 13,000 of those
15 documents are chats?
16 MS. SALEM: Object to the form.
17 A. No.
18 Q. Does that 13,000 number surprise
19 you?
20 MS. SALEM: Object to the form.
21 A. I'm not a lawyer. I don't have
22 any experience in complex litigation,
23 documents, or discovery. So I'd have no
24 grounds to be surprised by anything with
25 regard to the documents or discoveries in

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1
2 the case.
3 Q. Would you say it could be that
4 low because Google did not preserve those
5 chats?
6 MS. SALEM: Object to the form.
7 A. I'd have no comment on the
8 documents or the quantity of documents
9 because I'm not an attorney and I don't
10 have familiarity with documents,
11 discovery, or complex litigation.
12 Q. You don't have to have all those
13 titles to know that 13,000 of six million
14 is a very small fraction, right?
15 A. I don't know much or anything
16 about documents, discovery, and complex
17 litigation, so I don't know what would be
18 considered a small fraction in the
19 relative nature of this topic.
20 Q. I'll just make it really simple.
21 If you take 13,000 divided by
22 six million that's a tiny percentage,
23 right? Just --
24 MS. SALEM: Object.
25 Q. That's just the -- there's the

| | |
|--|--|
| <p style="text-align: right;">Page 290</p> <p>1</p> <p>2 "malarky," Mr. [REDACTED] is saying that</p> <p>3 you're -- with that history -- history</p> <p>4 on/off nonsense, is that applying the</p> <p>5 definition correctly?</p> <p>6 A. I don't know if [REDACTED] was using</p> <p>7 the Oxford definition of the word</p> <p>8 correctly in this chat.</p> <p>9 Q. So on the next page, Bates down</p> <p>10 at the bottom reads 8647135, the third</p> <p>11 from the bottom it's a chat -- or it</p> <p>12 starts with "my question for [REDACTED]."</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. And that's a chat you sent,</p> <p>16 right?</p> <p>17 A. That's a chat that I sent.</p> <p>18 Q. It says: [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 I read that correctly, right?</p> <p>22 A. That's what the text reads.</p> <p>23 Q. Who is [REDACTED]?</p> <p>24 A. [REDACTED]</p> <p>25 [REDACTED].</p> | <p style="text-align: right;">Page 292</p> <p>1</p> <p>2 expectation that they would come and join</p> <p>3 me in a meeting. And so there's a</p> <p>4 formality at times.</p> <p>5 However, generally I think of</p> <p>6 chat as more conversational and certainly</p> <p>7 nothing that's ever used for</p> <p>8 decision-making processes.</p> <p>9 Q. Like you wouldn't -- you're less</p> <p>10 likely to use the F-word or emojis in an</p> <p>11 email, right?</p> <p>12 MS. SALEM: Object to form.</p> <p>13 A. I have been known for my</p> <p>14 colorful language at time to time, and I</p> <p>15 certainly am a friend of what could be</p> <p>16 described as emojis or pictures from time</p> <p>17 to time, and I use them in both email and</p> <p>18 chat.</p> <p>19 I would say that I converse in a</p> <p>20 more colloquial manner when I converse</p> <p>21 over chat than I might converse over email</p> <p>22 simply based on the pace of the</p> <p>23 conversation.</p> <p>24 Q. So, when you -- going back to</p> <p>25 that top one that was -- that you updated,</p> |
| <p style="text-align: right;">Page 291</p> <p>1</p> <p>2 Q. Who is [REDACTED]?</p> <p>3 A. [REDACTED]</p> <p>4 [REDACTED].</p> <p>5 Q. Now, the -- the next page the</p> <p>6 very top, the very top one it says: Take</p> <p>7 our ball and just F-ing go home.</p> <p>8 Do you see that?</p> <p>9 A. Yes. I believe it says the word</p> <p>10 "fucking."</p> <p>11 Q. And that's a -- a chat that you</p> <p>12 sent on February 14th, 2023, right?</p> <p>13 A. It appears to be.</p> <p>14 And I subsequently edit it and</p> <p>15 removed the curse word.</p> <p>16 Q. I see that on the next chat</p> <p>17 down.</p> <p>18 And so we're -- would you say</p> <p>19 that chats are essentially more informal</p> <p>20 than emails?</p> <p>21 A. I think that's a broad</p> <p>22 characterization. If I were to request</p> <p>23 time with a subordinate employee and I</p> <p>24 were to ask them to come and join me via</p> <p>25 an email or a chat, I would have the same</p> | <p style="text-align: right;">Page 293</p> <p>1</p> <p>2 edited to say "take our ball and just go</p> <p>3 home," were you saying here that [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]?</p> <p>7 A. No, I was not.</p> <p>8 Q. What does it mean to take your</p> <p>9 ball and just go home then?</p> <p>10 A. Take your ball and go home is to</p> <p>11 stop playing a game. In colloquialism it</p> <p>12 refers to being at the playground and</p> <p>13 removing your ball and going home so that</p> <p>14 kids can't continue to play stickball or</p> <p>15 baseball or football.</p> <p>16 In this context I used</p> <p>17 admittedly colorful language to make a</p> <p>18 point about [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED].</p> <p>25 Q. Here what is -- what is Google's</p> |

74 (Pages 290 - 293)

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1
2 litigation hold by Google, did you start
3 moving conversations off the record so
4 they wouldn't be produced in this lawsuit?
5 A. No.
6 Q. Just your colleagues did that,
7 right?
8 MS. SALEM: Object to the form.
9 A. That's not my understanding of
10 [REDACTED]'s message.
11 MR. ROBINSON: I'll move to
12 another exhibit. The Bates stamp is
13 GOOG-NE-12976885.
14 (Exhibit 60, chat thread
15 9/18/2019, Bates GOOG-NE-12976885-887,
16 was marked for identification, as of
17 this date.)
18 EXHIBIT TECHNICIAN: Can I get
19 that one more time, counsel?
20 MR. ROBINSON: Yeah, sure thing.
21 It's GOOG-NE-12976885.
22 EXHIBIT TECHNICIAN: I don't
23 appear to have that one.
24 MS. YOUNG: Give us one second,
25 we'll send it to you.

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1
2 EXHIBIT TECHNICIAN: Do you want
3 to go off the record? Because it
4 takes me a little bit to put it into
5 the system.
6 MR. ROBINSON: That's fine.
7 THE VIDEOGRAPHER: The time
8 right now is 3:05 p.m.
9 We are off the record.
10 (Recess taken.)
11 THE VIDEOGRAPHER: The time
12 right now is 3:17 p.m.
13 We are back on the record.
14 BY MR. ROBINSON:
15 Q. Mr. [REDACTED], right before the
16 break, I handed you, or you were handed a
17 new exhibit, right?
18 A. I didn't get the exhibit before
19 the break, but it appears to be next to me
20 now.
21 Q. Did you talk about this exhibit
22 with your attorneys during the break?
23 A. I did not.
24 Q. Do you recognize this document?
25 A. I do not.

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1
2 Q. Do you see that it appears to be
3 a chat thread with the -- at the top it
4 says from [REDACTED] dated September 18th,
5 2019? Do you see that?
6 A. I do.
7 Q. And this appears to be a chat
8 thread between you and three other Google
9 employees, right?
10 A. It does.
11 Q. And the very first chat says:
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED].
19 Did I read that correctly?
20 A. Yes, I believe you did.
21 Q. [REDACTED]
22 [REDACTED]?
23 A. Correct, [REDACTED]
24 [REDACTED].
25 Q. And the next chat down it says:

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1
2 [REDACTED]
3 [REDACTED]
4 [REDACTED].
5 Now, do you see that it appears
6 that maybe some characters in here get --
7 get error coded to look like something
8 different?
9 A. Yes, it believes that
10 potentially the apostrophe gets error
11 coded into an ampersand pound sign 39 end
12 colon.
13 Q. And same with that when it says
14 [REDACTED]
15 [REDACTED] is probably
16 supposed to be just a quotation mark,
17 right?
18 A. I believe, yes, that that's
19 supposed to be quotation mark and was
20 broken in transcription.
21 Q. So you were chatting with [REDACTED]
22 [REDACTED], and [REDACTED]
23 about [REDACTED], right?
24 A. I was chatting with them based
25 on the message about feedback that was

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2 CERTIFICATE
3 STATE OF NEW YORK
4 COUNTY OF NEW YORK
5
6 I, Marie Foley, RMR, CRR, a
7 Certified Realtime Reporter and Notary
8 Public within and for the State of New
9 York, do hereby certify:
10 THAT [REDACTED], the witness
11 whose deposition is hereinbefore set
12 forth, was duly sworn by me and that such
13 deposition is a true record of the
14 testimony given by the witness.
15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage, and that I am
18 in no way interested in the outcome of
19 this matter.
20 IN WITNESS WHEREOF, I have
21 hereunto set my hand this 8th day of
22 April, 2024.
23
24 *Marie Foley, RMR CRR*
MARIE FOLEY, RMR, CRR
25

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2 LAWYER'S NOTES
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